IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 14086 of 2004

Between:

Sri. M.C.H. Anantha Reddy, S/o. Chinna Kondaiah,
R/o. Chintagunta Village, Markapuram Mandal,
Prakasam District.

..... PETITIONER

AND

1 The Revenue Divisional Officer, Markapuram Mandal, Prakasam District.
2 The Mandal Revenue Officer, Markapuram District, Prakasam District.
3 Sri Kasivajjula Subrahmanyam, S/o. Satyanrayana, Major,
R/o. Chintagunta Village, Markapuram Mandal,
Prakasam District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate orders, direction or writ particularly one in the nature of writ of Mandamus declaring the said order one in the nature of Writ of Mandmaus declaring the said order dated 23-7-2004 bearing No. RCH/1347/2004 issued by the respondent no.1 as illegal, arbitrary, contrary to law and principles of natural justice.

Counsel for the Petitioner: MR.K.ANUP KUMAR

Counsel for Respondents 1 and 2: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following Order:

The petitioner seeks a declaration that the impugned order dated 23-07-2004 passed by the first respondent-Revenue Divisional Officer, Markapuram Mandal, Prakasham District, is arbitrary and illegal.

The petitioner is the authorised dealer of the Fair Price Shop of Chintagunta Village, Markapuram Mandal, Prakasham District.

A perusal of the impugned order shows that the second respondent-Mandal Revenue Officer, Markapuram Mandlal, Prakasham District submitted a report on 19-07-2004 stating that the petitioner is indulging in certain irregularities in distribution of the essential commodities. On the basis of the said report, the impugned order was passed on 23-07-2004 suspending the authorisation of the petitioner.

This Court, having prima facie found that the impugned order is in the nature of a final order by way of substantive punishment and the same was passed without affording an opportunity to the petitioner to rebut the allegations, while directing notice to the respondents, by order dated 10-08-2004 granted interim suspension of the impugned order dated 23-07-2004.

Now, the first respondent filed counter-affidavit stating that after suspending the authorisation of the petitioner on 23-07-2004, a show-cause notice was issued to the petitioner on 27-07-2004. The said version of the first respondent has been disputed by the petitioner and it is submitted by the learned Counsel for the petitioner that no such notice has ever been served on the petitioner. Nothing has been placed before this Court by the respondents to show that the show-cause notice was served on the

petitioner and that the impugned suspension is pending enquiry into the alleged irregularities. At any rate, it is clear from the recitals in the impugned order that basing on the report of the Mandal Revenue Officer, dated 19-07-2004 it was concluded by the 1st respondent that the petitioner is causing inconvenience to the cardholders and contravened the instructions of the Government and accordingly the authorisation has been suspended. The law is well settled that such an order which is undoubtedly in the nature of a final order cannot be passed without notice to the aggrieved party. Hence, the impugned order being in violation of the principles of natural justice cannot be sustained.

Accordingly, the impugned order dated 23-07-2004 is set aside and the Writ Petition is disposed of with a direction to the first respondent to serve the show-cause notice on the petitioner, and to conduct necessary enquiry after considering the explanation that may be offered by the petitioner and pass appropriate orders in accordance with law.

The writ petition is accordingly disposed of. No costs.

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25-10-2004

kdl

To

1 The Revenue Divisional Officer, Markapuram Mandal, Prakasam District.
2 The Mandal Revenue Officer, Markapuram District, Prakasam District.
3 Two C.Cs. to the Government Pleader for Civil Supplies, High Court Buildings, A.P., Hyderabad, (OUT).

4 Two C.D. Copies.